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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,249	09/28/2001	Darren DeWall	60,518-010	6563

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

**Application No.**

09/967,249

**Applicant(s)**

DEWALL ET AL.

**Examiner**

Corbett B. Coburn

**Art Unit**

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 28 October 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☒ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):  
  
\_\_\_\_\_

#### DETAILED ACTION

1. Applicant fails to refer to the specification for support for Applicant's description of the invention.

2. Applicant fails to correctly state the issues on appeal. The issue on appeal is whether the claims were correctly rejected for each ground of rejection. Thus for claims 1-11, 20-32 & 41-43, the correct statement of the issue on appeal would be:

“Was the rejection of claims 1-11, 20-32 & 41-43 under 35 USC §103(a) as being unpatentable over Payne in view of Giobbi proper?”

3. Applicant's grouping of the claims is improper. Claims must be grouped according to their grounds for rejection. Then there must be a statement that the claims rejected under that ground of rejection stand or fall together. Generally, all claims under a single ground of rejection must either stand or fall together or must be argued separately – with a clear explanation as to why the claims is separately patentable. However, sub-grouping of claims within a single ground of rejection is customarily permitted. Applicant must be careful to avoid mixing claims into a sub-group with differing grounds of rejection.

4. For each issue on appeal, Applicant must provide a separate heading.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc



JESSICA HARRISON  
PRIMARY EXAMINER